Supreme Court, U.S.
FILED
SEP 12 2006
OFFICE OF THE CLERK

NO.: 06-640

IN THE

SUPREME COURT OF THE UNITED STATES

GEORGE W. CANNADY

PETITIONER

v.

KARL SINCLAIR FRANZ, M.D." et al

RESPONDENT'S

On Petition For Writ Of Certiorari To The United States Court Of Appeal The Florida 11 Circuit For Fourteenth Judicial Circuit For

---

PETITION FOR WRIT OF CERTIORARI

GEORGE W. CANNADY
Counsel of Record
BRITT THOMAS
P.O. Box 14500.
Tallahassee FL. 32317-4500
Telephone: 850-224-5252
Facsimile: 850-222-3082

Pro-se for Petitioner.
George W. Cannady

QUESTION(S) PRESENTED

Under Florida Law Statute 768.28 (9) (a) , 2001, waives and 768.13 (2) (b)1 waive of the immunity Fl. 768.13 (2) (b)1 Obligations imposed by 42 U.S. C. 1359dd (EMTALA) or F.S.395.1041

1. Does Chapter 766.103 Govern this case to be a medical malpractice case?

2. Does Chapter 766.103 (2) referred you to Chapter 768.13

3. Does Chapter 768.13 (2) (b) 1 referred you to 42 U.S.C. 1395dd, s 395.1041(4) Pub. L No. 99- 272, S. 9121

4. Does a Emergency room have the right to put liability on Non-employee Dr. that practices in the same hospital, On A claim file under 42 U.S.C. 1395dd or F.S. 395. 1041 Witch fall under negligent anti-dump? See Fabre v. Marin, 623 So. 2d 1182 (Fla. 1993). As Malpractice case does Insinga v. La Bella, 543 So. 2d 209 (Fla. 1989).

5. Does a hospital emergency room have the right to dump a patient at the emergency room if one of their employee punctured a patients artery with a I.V .needle?

6. If the Emergency room had treated the I.V. injury of 3/ 5/ 01 at the emergency room on March 20, 2001 or if Franz 2001, or If Franz had gave me treatment or sent me to the Hospital for treatment on 3/ 26,2001,would I have a blood clot in my right hand now?

QUESTIONS PRESENTED Continued

7. Is it fair a Judge to have a conclusion of a case before hearing all the evidence?

8. Does a Order that totally disposes of a case could be appeal if it. Has no judgment on it ?

9. Does a medical malpractice case hold a Dr. liable for J.H. employee practicing medical procedures.

LIST OF PARTIES TO THE PROCEEDING

All parties do not appear in the caption of the Case on the cover page. A list of all parties to the proceeding in the Court whose judgment is the subject of this petition is as follows:

Petitioner George W. Cannady Pro-se

vs

Karl Sinclair Franz M.D. Att. Britt Thomas
Law Office George, Hartz, Lundeen,Fulmer, Johnstone, King & Stevens P.O. Box 14500 Tallahassee FL. 32317-4500

Jackson Hospital. Att. Heidi J. Livingston
Att. Keith Kress Respondent
Hill, Adams, Hall, & Schieffelin, P.A. P.O. Box 1090
Winter Park, FL. 32790- 1090

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A. The Fla. Supreme Court Concluded that the court didn't have jurisdiction over a distr- ict court unelaborated pre curiam decision

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The Court had jurisdiction over Case No. SC01-1862 and SC03-284, Both was un-elaborated pre curiam appeal.---------- 1

1. The first district court of Appeal Agree with the Fourteenth Circuit. ---------- 3-4

B. The Fourteenth Interpretation of 42 U.S.C. S. 1395dd, S. 395.1041 require a Notice of Intent to sue the Respondents.---------- 3-4

THIS PETITION PRESENTS A QUESTION OF CONSIDERABLE IMPORTANCE REGARDING 42 U.S.C. 1395dd OR 395.1041 APPORTION LIABILITY AMONG ALL CULPABLE PERSON OR ENTITIES INCLUDING NON-DEFENDANTS – OR NON-EMPLOYEE PHYSICIANS AT FAULT. ---------- 2-6

C. The Fla. Statutes that was draw in question is F.S. 766.103 (2). F.S. 768.13 (2) (b) 1 & The 42 U.S.C. S. 1395dd & F.S. 395.1041notifications Required by Rule 29.4 (c) has not been made by either of the court. ---------- 1-6

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PETITION FOR WRIT OF CERTIORARI

George W. Cannady respectfully Petitions for a Writ Of Certiorari to review the judgment below From The Fourteenth Judicial Circuit For Jackson Co. Fla.

FLORIDA SUPREME ORDER

The Supreme Court Of Florida Acknowledgment of not wanting a rehearing. (Pet. App.-1a July 25, 2006. The Supreme Court Order (Pet. App.-2a July 14, 2006 Also Said the Motion was Denied. See Jackson v. State. In Jackson the Supreme Court held that Article V section 3 (b)(1),The Florida Constitution doesn't authorize the Court Jurisdiction over District Court of App. unelaborated per curiam decision issued by District Court of A. The Supreme Courtof Florida on July 8, 2004, accepted a Pre Curiam Appeal from Mark D. Mills v. State of Fla. No SC01 18 62. The last Court That Judged on the Merits was. The First District Court Of Appeal Tallahassee Fla. This Court granted a 60 day extention from Oct. 13, 2006 for this Petition to be filed.

JURISDICTION

The Fla. Supreme Court Acknowled letter, July 25, 2006 the case being final The Supreme Court of Appeal Order was issued on July 14, 2006, An Order denying the appeal and rehearing. Article III Vested the United States Supreme Court Judicial Power For Review. 28 U.S.C 1251 (a) (2) 28 U.S.C. 1254 (1)

STATUTORY PROVISIONS INVOLVED

Relevant provisions of the Federal Emergency medical treatment and Active Labor Act. 42 U.S.C. S. 1395dd S. 395.1041 or S. 401.45 (1) (b) F.S. 768.13. (2) (b) 1 F.S. 766.103 (2)

STATEMENT OF THE CASE

This is a negligent anti-dump case with jury trial demand on all issues. The Respondent didn't provide Medical care at E.R. This Liability attaches only when the hosp. fails to exercise due care in the selection and retention of the physicians on its staff. See Insinga v. La Bella, 543 So. 2d 209 (Fla. 1989). Dr. Griffin was retained on the hosp. staff. Dr. Franz was a non-employee that practice medicine at the hospital. Fla. Court have recognized that hosp. may be liable for acts of non-employee physicians on theories of joint venture (i.e., when there is a community of interest in a common purpose, joint control, sharing of profits and duty to share losses) See Arango v. Reyka, 507 So. 2d 12 11 (Fla. Dist Ct. App. 1987) and apparent agency. Webb v. Priest, 413 So. 2d 43 (Fla. Dist. Ct. App. 1982). Or is Fabre v. Marin , 623 So. 2d 1182 (Fla. 1993 for apportion liability among all culpable persons or entities includeing non-defendants. Or non-employee physicians when the hospital fails to exercise due care of their fault, to put liability on a non-employee Dr. for dumping the Dr. patient at E.R. The (Respondent Franz) went on vacation, left no attending physician to care for his patient, Didn't provide care when return on March 26,2001,The Respondent filed a Motion to dismiss for a notice of intent Chapter 766.106. Petitioner filed a Motion to Squash for unreasonable failures for not providing care at E.R. or Dr.s Office (766.106 (3) (a) See (Pet. App.7a page 7 line 3-10 &18-25 See Estevez v. Montero , 662 So. 2d 1268 Fla. 3rd DCA 1995).The Respondent claim F. S. 95.11 time had run out, The Petitioner claimed Misrepresentation preventing discovery, Florida Statute 95.051(d). The Constitutionality up held Four-year statute of repose was, In Damiano v. McDaniel, 689 So. 2d 10 59 (Fla. 1997).

The Respondents claim for corroborating verified writ -ten medical expert opinion. A Defendant who denies the existence of reasonable grounds for the claim must -- also Provide a corroborating verified written medical expert opinion, Unless the alleged negligence is obvious to a layman See Reynolds v. Burt, 395 So. 2d 50 (Fla. Dist. Ct. App.1978). This case is base on 42 1395dd (EMTALA) and Fla. S. 395.1041 that was copied from from (EMTALA). The Court in (Pet. App. C- F believed (EMTALA), & F.S. 395.1041 require A notice of intent to sue a hospital and Doctor for their illegal Acts. These Statutes are Governed by Florida Statute 768.13 (2)(b)1. There has been a error in this case, Florida Statute 395.- 1041 and (EMTALA) has resulted in a miscarriage of justice. The Court hasn't held the guilty parties accountable for their action.This case was dismissed as a medical mal -practice case for failure to filed notice before filing action as required by Florida Statute 766.106.But your HONOR this isn't a Medical Malpractice case, This is a negligent dumping case at the Emergency-room and the Dr.'s Office. Going back to the IV injury of 3, 5, 2001,The Dr. wasn't doing test on my hand. The employee was practiceing medicine with a I V needle. I was in the hosp. for a upper G.I. Test for Ulcers. Even thou, the Att. for J.H. wrote in her brief that the Dr. was doing test on my hand which is not true, Att, for Franz, wrote in his Brief that he left an attending physician for his patient care which is not true either. Ch. F.S.766.103 (2) didn't require a Notice before filling action. Florida Statute 768.13 (2) (b) 1 refers you to 42 U.S.C. S 1395dd and 395.1041 See Sum -mer v. Baptist Med Ctr. Arkadelphia, 91 F. 3d 1132 ,11-37 – 38 (CA8 1996).

The petitioner didn't go to the hospital to have test on his Hand by a Dr, on March 5 , 2001 To make this case to be a Medical malpractice case the Dr. would had to do Testing on my hand. ***So the Court Error.*** In making its Ruling Ch. 766.103 (2) didn't Govern it to be a Med. Malpractice case.

The transcript of hearing held May 20 / 03 (Pet. App. 7a- Page. 11 Line 5 -7 , Well, my complaint actually don't stipulate Malpractice in other word. (The Court:) I understand Page 6 line 6-9 (The Court:) let me make sure I.ve got you straight. Essentially, your client and you have no evidence that you ever received the necessary notice of intent. Page 6 Line 11-13 (The Court:) And there's nothing in the File to indicate that he sent it, and it got sent to the wrong place or anything else? There's just nothing there. This shows the Judge drew a conclusion before hearing all The evidence of the Case. This is grounds for a mistrial to draw a conclusion before hearing all of the evidence of a Case. The Court: never dressed the issues of sovereign immunity in the tort action at the hearing of May 20 , 2003. The transcript of proceeding page 10 line 15-16 said hospital has certain rights. The Petitioner alleged all rights was waived for not getting treatment at E.R. and the Dr. off. See In Crumpton v. Stone 59 F. 3d 1400,1403 (D.C.Cir. 1995). If due care was exercised, sovereign immunity hasn't been waived. The facts, of this case, supports the waiving of sovereign immunity for Jackson Hospital for not exercising those rights on 3, 20/ 01, at E.R. On Oct. 30,2003 Final Judgment filed. Motion for rehearing was filed Nov. 5.2004 in L.T. 1st Appeal of D.C.A. was dismissed because judicial labor appeared to remain in the L. tribunal with the Appellate Dr. Franz. Motion for Rehearing with D.C.A Nov. 3, 2003 with Final Judgment Rehearing denied Dec.2, 2003 Motion for Rehearing in the L.T. was denied Dec.3,2003. The Notice of Appeal was filed Dec.18,2003. D.C.A. Opinion filed Sept. 14, 2004 (Pet. App 3a- Opinion Pre Curiam. Rehearing denied Oct.18, 2004. Notice of Appeal was file to Fla. Supreme Court Oct.

27,2004 .Supreme Court Order Nov. 4,2004 dismissed, The Court wanted Motion Established Jurisdiction Dec.13,2004 is hereby deferred until Resolution of Jurisdictional issue of Jackson v. State. The Fla. Supreme Court dismissed my Notice of a appeal under art. V, 3 (b)(3).The Court did Mark D. Mills v. State of Fla. No. SC01-1864.

REASONS FOR GRANTING THE PETITION

I FIRST OF ALL THIS CASE HAS RESULTED IN A MISCARRIAGE OF JUSTICE.

The Court only looked at one side of this case. Fla. Statute 395.1041 or 42 U.S.C. 1395dd didn't require a notice of intent to sue a Respondent, The Petitioner would only need to show he was dumped at E R. & the Dr.s Office and that it resulted in injury from being dumped. Petitioner requested for the requirement of 1395dd (a) emergency partment of a hospital must provide for an appropriate medical screen -ing examination within the capability of the hospital's.(with -in the meaning of subsection (e) (1) of this section) exists. In (e)(1)(A) a medical condition manifesting itself by acute symptoms of sufficient severity (including severe pain).And (1)(A)(ii) serious impairment to bodily functions. No Dr. has

II THE PETITIONER HAS SUFFERED SEVERLY WITH PAIN AND CONTINUOUSLY SUFFERS WITH PAIN FROM THE BLOOD CLOT. A HAN -D SPECIALIST SAID IF J. H. HAD GAVE ME AN ASPIRIN OR A BLOOD THINNER ON 3/20/ 2001. I WOULD NOT HAVE THIS BLOOD CL- OT NOW.

ever denied the serious impairment to the bodily functions of this case. Dr.s always ask why I didn't get treatment before the clot. In 395.1041 (1) Is the Legislative intent finds and declares it to be of vital importance that emergency services and care be provided by hospital and physicians. In sec -tion (3) (c) (3) (d) 1 every hospital shall ensure the provision of services within the service capability of the hospital at all time either directly or indirectly. In section (5) Under PENALTIES (5) (b) Any person who suffers personal harm as a result of a violation of this section or rules adopted hereunder May recover in civil action. (5)(e) A physician licensed under chapter 458 or 459 who negligently or knowingly violates any requirement of this section relating to the provision of emergency services and care shall be deemed in violation of the provisions of such chapters. All hospital or Dr. should be able to give a patient a aspirin or a blood thinner to prevent clotting of blood ? Whether 42 1395dd or F.S. 395.1041 the requirements was not made to prevent injury by E. R. or Dr.Franz from getting worse See Summers v. Baptist Med Ctr. Arkadelphia, 91 F. 3d 1132, 1137 – 38 (CA 8 1996

III THE 11 CIRCUIT COURT DECISION EXACER -BATES THE CONFLICTAND DISAGREEMENT AMONG THE U.S. COURT DECISION 42 U.S.C. 1395dd

Dr. Franz being a General Surgery should've known to Admit me in the hospital and Give me a blood thinner or aspirin to prevent the blood from clotting. Dr.s don't want to tel -l you the outcome of the nerves and the body not getting the blood supply that is required. They look at you as if you are a walking corpse. If you had pain and deterioration of the bra -in & body you would want justice too.

CONCLUSION

The due care provision wasn't met to the requirement of law and there were no Dr. testing on my hand on March 5, 2001. The respondents was successful in the Pretence they presented to the court. The Judge was ove -rwhelm enough to believe that this case was a medical malpractice case. Going back to the hearing of 5, 20, 01 the (Judge words) Your client and you have no evidence that you ever received the necessary notice of intent. To be a medical malpractice case the Dr. Franz would error in the upper G.I test and would've test on my hand and cause injury to the hand. But this isn't what happen to my hand. The employee is the one that practiced medicine with a I V needle on March 5, 2001. The hosp. put liability on Dr. Franz as a non-employee for his patient. The law maybe unfavorable For a non-employee Dr. But All Dr. take a oath to up hold the duties as a doctor. And Those duties is to make sure that care is given to a person In need . Dr. Franz on March 26, 2001 looked at me like I was crazy for asking him to admit me to the hosp. to get treatment the general surgery didn't want me as a patient no more. This result is contrary and the most basic notions of justice

For the reasons set forth herein, the Petitioner, Mr. Cannady, respectfully requests that the petition for writ of *certiorari* be granted.

Respectfully submitted,
GEORGE W. CANNADY
Counsel of Record
BRITT THOMAS
P.O. Box 14500
Tallahassee FL.32317-4500
Telephone: 850-224-5252
Facsimile: 850-222-3082
Pro-se for Petitioner.
George W. Cannady

Dated:November 3rd 2006

Supreme Court Of Florida

Office of the Clerk
500 South Duval Street
Tallahassee, Florida 32399-1927

Thomas D. Hall
Clerk

Phone No. (850)488-0125

Debbie Causseaux
Chief Deputy Clerk
Gregory J. Philo

www.flcourt.org/clerk.html

ACKNOWLEDGMENT

July 25, 2006

RE: George W. Cannady v. Karl Sinclair Franz, M.D., ET AL.

Case Number: SC04-2104
Lower Tribunal Case:iD03-5465

The Florida Supreme Court has received the following documents reflecting a filing date of 07/ 25/ 2006.

Letter to Justices Lewis, C.J., Wells Anstead, Pariente, and Bell, JJ. With attachments

Please be advised that the above styled case is final in this Court and no further pleadings may be filed. Any further filing will not be responded to and placed in a miscellaneous file.

in

cc:

George W. Cannady Britt Thomas Heidi Jo Livingston

Supreme Court Of Florida

Fridy, July 14, 2006

Case N0.: SC04-2104

L.T. No.: 1D03-5465

George W. Cannady vs. Karl Sinclair Franz M.D., ET AL

Appellant(s) Appellee(s)

Appellant's" Motion Established Jurisdiction for the Supreme Court Article V.3 (b)(1)"is hereby treated as a motion for reinstatement & denied. See Jackson v. State 926 So. 2d 1262 (Fla. 2006). All other pending motions and requests are denied as moot. No motion for rehearing will be entertained by the Court.

Lewis, C.J., and Wells, Anstead, Pariente and Bell, JJ., concur

A True Copy
Test:

S Thomas D. Hall
Thomas D. Hall
Clerk. Supreme Court

mc
Served:
Hon. Jon S. Wheeler, Clerk George W. Cannady
Heidi Jo Livingston Britt Thomas Non. Dale R. Guthrie, Clerk Non. William L Wright, Chief Judge

District Court Of Appeal, First District
Tallahassee, Florida 32399-1850
Telephone No. (850)488-6151

October 18, 2004

Case NO.: 1D03-5465
L.T. No.: 03-230CA

George W. Cannady v. Karl Sinclair Franz, M.d. And Jackson Hospital

Appellant/ Petitioner(s), Appellee/ Respondent(s)

By Order Of Court:
Appellant's motion filed September 23, 2004, for re-hearing is denied.
Appellant's amended motion filed September 30,2004 For clarification is denied.

I Hereby Certify that the foregoing is (a true copy of) the original court order.

Served:
George W. Cannady Kaci Kohler Line
Heidi J. Livingston Britt Thomas

jm

S Jon S. Wheeler,
Jon S. Wheeler. Cleck

In The District Court Of Appeal
First District, State Of Florida

George W. Cannady

Appellant,

Not Final until Time Expires To File Motion For Rehearing and Disposition thereof if filed

v.

Karl Sinclair Franz. M.D.
And Jackson Hospital
Appellees.

_____/

Opinion filed September 14, 2004

An appeal from the Circuit Court for Jackson County
William L. Wright, Judge.

Appellant, pro-se.

Britt Thomas of George, Hartz, Lundeen, Fulmer, Johnstone, King & Stevens, Tallahassee, for Appellee Karl Sinclair Franz, M.D.

Heidi J. Livingston and Kaci Kohler Line of Hill, Adams, Hall & Schieffelin, P.A. Winter Park, for Appellee Jackson Hospital for Appellees.

Pre Curiam.
Affirmed.
Ervin, Padovano and Lewis, JJ., Concur.

In The Circuit Court of thr Fourteenth Judicial Circuit In and For Jackson County Florida

George W. Cannady
Plaintiff

v. **Case No.: 03-230C**

Karl Sinclair Franz. M.D.
And Jackson Hospital
Defendants

Order Denying Motion For Rehearing

This Matter is before the court on the Defendant's pro-se Motion for Rehearing, filed November 5, 2003. Having reviewed said Motion, Court file and record, and being fully advised, the Court here -by find the Defendant's motion is without merit. The function of a motion for rehearing is to present something that the court overlooked or failed to consider that renders the judgment erroneous. Hollywood v . Clark, 15 So. 2d 175 (Fla. 1943); Cole v. Cole, 130 So.2d 126 (Fla. 1 st DCA 1961). The defendant fails to raise any new argument or alleg -ations of merit which the Court overlooked in his previous motion.

Therefore it is

Ordered and Adjudged that Defendant's Motion For Rehearing is Denied Defendant has thirty (30) day to appeal this. Done and Ordered in Marianna, Jackson County, Florida, this 3 day Of December 2003

S WL whight
Honorable William Wright, Circuit Judge

I Hereby Certify that a true and correct copy of the foregoing has been Furnished by U.S. Mail to George Cannady, 4785 Hwy 71 N., Greenwood FL 32443, Dr. Franz c/o Britt Thomas, Esq., P.O. Box 14500. Tallahassee , FL 32317-4500, and Jackson Hospital,c/o Heidi Livingston, Esq., P.O. B- ox 1090, Winter Park, FL 32790-1090, this 3 day of December 2003.

S Debbie Burch Judicial Assistant
Debbie Burch, Judicial Assistant

In The Circuit Court Of The Fourteenth Judicial Circuit In and For Jackson County, Florida

George W. Cannady
Plaintiff

v.

Case No.: 03-230 CA

Karl Sinclair Franz, M.D.
And Jackson Hospital
Defendants.

Final Judgment

This Cause having come before the Court on Defendants' Motion to Dismiss ,this Court being fully advised on the premises hereby enters Final Judgment in favor of Defendants for Plaintiff's failure to comply with the pre-suit investigation and notice requirements under Chapter 766, Florida Statutes, prior to the filing of the above styled action, as was set out in the attached orders on the Motion to Dismiss.

Therefore it is Ordered and Adjudged that this Final Judgment Grants Defendants' Motion to Dismiss With Prejudice. Plaintiff shall take nothing by this action and Defendants shall go hence without day.

Done and Ordered in chambers, Jackson County, Florida, this 29 day of October 2003

Attachments: Orders on Motion to Dismiss

S W L Wright
Honorable William L. Wright, Circuit Judge

I Hereby Certify that a true and correct copy of the foregoing has been furnished by U.S. Mail to George Cannady, 4785 Hwy 71 N. Greenwo -od , FL 32443, Dr. c/o Britt Thomas, Esq., P.O. Box 14500 Tallahassee , FL 32317-4500, and Jackson Hospital, c/o Heidi Livingston, Esq., P.O. Box 1090, Winter Park, FL 32790-1090, this 30 day of October 2003

S Debbie Burch
Debbie Burch, Judicial Assistant

Quote of page and line of transcript of hearing May 20.2003 page 6 page 7 page 11

line	page 6
6	The Court: Let me sure I;ve got you
7	straight. Essentially, your client and you have no
8	evidence that you ever received the necessary notice of
9	intent.
11	The Court: And there;s nothing in the file to
12	indicate that he sent it, and it got sent to the wrong
13	place or anything else? There's just nothing there.

line	page 7
3	MR. Cannady: My response is due to the
4	unreasonable failure of both defendants, in other words, I
5	went there to get treatment, and I've been told by a
6	professional doctor that the artery blockage in my hand
7	could nave been prevented just by giving me a blood
8	thinner, Your Honor. We wouldn't be here today if Jackson

line Continued from page 7

9 Hospital or Dr. Franz had gave me a blood thinner instead
10 of telling me,"Hey' go back to Dr. Franz."
18 MR. Cannady: Well, like I said the Florida
19 statute that he's talking about 766.106 (3)(a)(4) says any
20 reasonable failure of the defendants or me, in other words,
20 would qualify dismissal of the defense. In other words,
21 would qualify dismissal of the defense. In other
22 they're using this statute for defense. In other words,
23 they don't cooperate with me. In other word, why should
24 cooperate with them? In other word, I went to the
25 hospital and asked for treatment, Your Honor, and I should

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line Continued page 11

5 MR. Cannady: Well my complaint actually don't
6 stipulate malpractice, in other words.
7 The Court: I understand.
9 word, the statute says unreasonable failure of either
10 side, in other word, Your Honor.

(2)

No.: 06-640

FILED
FEB 16 2007
OFFICE OF THE CLERK
SUPREME COURT, U.S.

IN THE

SUPREME COURT OF THE UNITED STATES

GEORGE W. CANNADY

Petitioner

v.

JACKSON HOSPITAL, " et al

Respondent's

Petition For Rehearing Writ Of Certiorari
The United States Supreme Court Of Appeal
For The Fourteenth Judicial Circuit

REHEARING ON PETITION FOR

WRIT OF CERTIORARI

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Pro-se for Petitioner.
George W. Cannady

QUESTION(S) PRESENTED

Florida Law 768.13 (2) (b)1 Governs Federal Statute 42 U.S. C. 1359dd and State s. 395.1041 s. 401.45.

1. Does the United States Supreme Court have the power to Review a State Statute that Governs the Federal Law in the State of FL.? 42 U.S.C. 1395dd, and State s. 395.1041, is copied from Fed. Law and is it considered the same Law ?

2. When a Judge disclose issues of conflict to a party of a case and a party agrees to let the Judge hear the case if the Judge can make a fair ruling? Can he be removed after the hearing for not doing a fair hearing?

3. Can a office employee put liability on a Dr. if she pretends to be a intern at the hosp. and injures a patient of his?

4. Does a Judge have a right to stay on a case after a party Filed a Motion Seeking a Recuse by F.S. 38.01 See - Mc Mullen v. State, 93 Fla. 693, 112 S0. 462 (1927? No Judges order of denying the Recuse Motion Filed May 21 / 2003 After Hearing May 20/ 2003

5. Does the United States Constitution Article III Vested the Power of one Supreme Court for Original Jurisdiction?

6. Does the United States Constitution Article III Section 2 (3) Grant rights to trial by jury for crime?

LIST OF PARTIES TO THE PROCEEDING

All parties do not appear in the caption of the Case on the cover page. A list of all parties to the proceeding in the Court whose judgment is the subject of this petition is as follows:

Petitioner George W. Cannady Pro-se
4785 Hwy N.
Greenwood Fla. 32443

v.

Jackson Hospital. Att. Heidi J. Livingston and Keith Kress Hill, Adams, Hall, & Schieffelin, P.A.
P.O. Box 1090 Winter Park, FL. 32790- 1090

Karl Sinclair Franz M.D. Att. Britt Thomas Law Off, George, Hartz, Lundeen ,Fulmer, Johnstone, & Stevens
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I THE PETITIONER HAS BEEN DISCREMINATION AGAINST BY THE COURT OF FLORIDA.

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PETITION FOR REHEARING ON WRIT OF CERTIORARI

George W. Cannady respectfully Petitions for a Rehearing On Writ of Certiorari to review Order of Jan. 8, 2007

OPINIONS BELOW

The Supreme Court of the United States denied the Petition For a Writ of Certiorari. This Court granted a Application No. 06A727 Jan. 24 , 2007 for a extension to March 4, 2007 for Rehearing Petition to be filed.

JURISDICTION

The United States Supreme Court Denied the Petition for Writ of Certiorari Jan. 8, 2007. The Constitution of U. States Article III Section 2 No (2) Original Jurisdiction, and No (3) Grant Jury Trial, The Constitution of the United States Vested the Supreme Court with Judicial Power to review this case. The Federal Civil Rights Act. of 1871 (42 U.S.C.A. 1983) Grants a Civ. Cause of Action for Deprivation of Rights by States Action. & For Review 28 U.S.C 1251 (a) (2) 28 U.S.C. 1254 (1) Fla. s. 38.01

STATUTORY PROVISIONS INVOLVED

Relevant provisions The U.S. Constitution Article III Title 42 Chapter 7 Subchapter XVII. Part D. 1395 dd Examination and treatment for emergency medical Conditions F.S. 395.1041 & 401.45 (1) (b) F.S. 768.13. (2) (b) 1 F.S. 766.103 (2) F.S. 38.01

FACT OF THE CASE

This case has a demand for jury trial on all issues. The United States Constitution Article III secured this right to all. Article III secured one Supreme Court with power to review cases. The United States Supreme Court Granted a Application extension of time to file the Rehearing Petition on this case. This Court has power to review the discrimination of the Florida Supreme court under Article III the United States Constitution. The Respondent error in not providing Medical care in need at the E.R. or the Doctors Office. The Respondents Motion to Dismiss was filled with allegations of pretences of their rights. Chapter 766.103 (2) shows the Respondent Pretence was false. Judge Wright breached his duties as a Judge to making a fair ruling on this case. Judge (Wright) disclosed on the record that Dr. Franz did Surgery on him and was his Dr. for a time, But Franz referred the Judge to another Dr.. Judge Wright said he hasn't seen him as a Dr. for 3 or 4 years. The Judge fell to disclose that Dr. Franz was a friend of his. The Judge also disclosed that his wife was a pink Lady at the hospital who volunteers 2 mornings a month at the hospital. Judge Wright Recused him self Case No.: 00- 41CA in 6 / 6/ 00 as a conflict of interest, (Defendant J. Hosp.) The Petitioner trusted Judges words of making a fair ruling on this case. The Judge Stated on record,

The Court: **Let me make sure I've got you straight. Essentially**, your client and you have no **evidence** that you ever received the **Necessary notice** of **intent**. The Court: And there's noting in the file to indicate that **he sent** it, and it got sent to the **wrong place** or anything else? **There's just nothing there**. The Petitioner would like to examine the statement of the Judge made May 20,2003 at the hearing, Before hearing all the evidence of this case page 6 line 6-9 (The Court) State necessary notice of intent. The Petitioner would like to give the definition of necessary, it means unable to do without, (mandatory or unavoidable). Petitioner filed a Motion for Disqualifying of interest, In the Motion, No. 2 States The Plaintiff seeking Recuse by Fla. Statute 39.01 Who appears of record as a party to any cause before him be disqualified to act. The Petitioner would State this is the most lawless justice of all in this case. The Judge, said he could make a fair ruling on this case & Then before hearing all the evidence the Judge made a feint, This show the judge had a conflict of interest in this case. This isn't Justice for the Petitioner in this case. Did the Judge know the law of Fla. that Dr. & Hospital could be sue for dumping people at E.R. & Dr. Offs.. The Judge said he knew the Law. On page 7 of the hearing, The Judge stop me and said I know you're representing yourself, and you're doing a pretty good job

This is just a hearing on the law. The Motion for Rehearing show the law 395.1041 that was copy from 42 U.S.C. 1395dd is law. Going back to the IV injury of March 5, 2001, the Dr. wasn't doing test on my hand. The employee was practicing medicine with a I V needle. I was in the hosp. for a upper G.I. Test for Ulcers. The Hearing May 20 ,2003 record page 11 line 5- 6 Well, My Complaint actually don't stipulate Mal-practice, In other word. (The Court: I understand). What did the court understand ? The Petitioner would State that there is only one phrase in the Complaint that could be interpreted as a Malpractice case. This is No. 6 of the Complaint where Dr. Franz receptionist said Franz want be back till he returns from vacation. No attending Physician to see his patients. For the Court to draw a conclusion of the Petitioner phrase the court Would've had to know that Dr. Franz had cause the injury If the court interpreted No. 5 to be as Malpractice this would Be wrong because J.H. answers to my question was no interns Involved in Mr. Cannady care on March 5 2001. The answers Was in the file. Jackson Hospital answers was right there was No interns in Mr. Cannady care. The pretended interns was a Office employee practicing medicine with a IV needle. The Respondents never denied that they dump me & didn't provide medical care at the Emergency room & the Dr.s Office Ch. F.S. 766.103 (2) didn't require a Notice before filling action. Florida Statute 768.13 (2) (b)1 refers you to 42 U.S.C. s. 1395dd

395.1041. See Summer v. Baptist Med. Ctr. Arkadelphia, 91 F. 3d 1132, 11-37 – 38 (CA8 1996). The Petitioner would like to examine the liability of the injury that the employee did with the IV needle for liability against Dr. Franz for the employee action, Did Dr. Franz know the employee was in the Hospital practicing medicine with a IV needle. I think not, Dr. Franz wouldn't let a employee practice medicine on a patient of his. The Petitioner would like for Dr. Franz to tell the Court that he knew thaf the employee endangered the life of a patient of his. If Dr. Franz knew the employee was practicing medicine on his patient then this would be a Medical Malpractice case. By not getting treatment at E.R. & Dr. Office, this will cause a slow and painful death to the Petitioner. Petitioner has been told that if he would let the Dr. cut his Right hand off, it would prevent death of the Petitioner. The Petitioner rather be dead than to lose his right hand. The Respondent hasn't rebutted any facts that the Petitioner has interpreted of Florida Statute 766.103 (2) That would show F.S.766.103 (2) wouldn't Govern this case to be a medical malpractice case. The Petitioner is asking this court to address the issues for the future of this case. At my death my family would need to know how to filed charges against the Respondents. Murder has no time limit on prosecuting this Respondents. The Petitioner alleged all immunity was waived for not getting treatment at E.R. and the

Dr. off. See In Crumpton v. Stone, 59 F.3d 1400, 1403 (D.C. Cir. 1995) If due care was exercised, the sovereign immunity hasn't been waived. The facts, of Law of this case, supports the waiving immunity for J. H. & Dr. Franz didn't exercising those rights on 3, 20 / 01, at E. R., and the Dr.s Office 3 / 26 / 01. The three prescription that Dr. Franz wrote was for the ulcers test. No prescription for The injury the employee did to my hand. The law of Fla. State if a Dr. assist a patient in need he can recovery any Damages that the Hosp has imposed on him. If Dr. Franz had gave me treatment or referred me to a hand specialist instead of waiting for the injury to going away. I went to his office three time to get treatment but never did. Angela P. Franz P.A. referred me to a friend of theirs on April 24 / 2001 to stall for time for the injury to go away. When the Petitioner finally seen Dr. Kisunger after cancelled the first appointment Dr. Kisunger said I don't do hand I'm a heart Doctor. Dr. Franz should've sent me back to the Hosp. to be monitor for the blood clot. The Hosp. and Dr. Franz fail all of the requirements of this Case being a medical malpractice case. The Petitioner would state if there was any issue that Dr. Franz contracted with the employee then this case could be a medical malpractice. To the Petitioner finding of fact of this case there no issue that ties Dr. Franz to the office employee of Jackson Hospital.

Where the Liability isn't tied to Dr. for his initial duties to his patients then there no Malpractice case to the Dr.. .The liability that is impose on Dr. by a Hospital isn't the initial liability. A Dr can recover damages for Liability that is imposed on him that wasn't his initial duties to his patient. The Petitioner would state that J. H. broke the initial duties in the care of Dr Franz patient by letting a office employee in the Hosp. where medicine was practiced. When the R.N. came and inserted the IV needle in the left hand, the Dr. was able to do his initial duties to his patient. The Respondents has not shown that Dr. Franz broke his primary care to his patient. J.H. imposed (meaning forced) duties to accept.

ARGUMENT OF FACT

The Petitioner could argue that this case was dismissed Before the ninety days had expired to file a notice of intent if by some chance the Petitioner had over looked some issue that this case could have been a medical Malpractice case. The Petitioner would argue that the time hasn't expired to file A notice while this case was being appeal. The Petitioner is asking the United States Supreme Court to review this case & Reinstate my case or refer this case back to the Fla. Supreme Court to address the Issues of this case.

CONCLUSION

The feint made by Judge Wright about the necessary notice showed he had a interest in this case And the Judge should've removed himself from this case. Judge removed himself in a another case alleging his wife worked at Jackson Hospital as a volunteer, pink lady. The Petitioner showed the Judge had a interest in the outcome of this case. The Judge wouldn't want his wife to be criticize about his decision to let a Cannady case go forward especially the Petitioner's ancestor had came from slavery and had cause a Black man to be lynch by the good lawless Citizens of Jackson County. The oak tree is still stand -ing to remind them of their lawless revenges. The Judge even denied the Cannady rights to there grandson after four years of fighting for him to be with his siblings. The March 26, 20 01 duties wasn't the Dr initial duties, this was impose by Jackson Hosp. Dr. Franz didn't except these duties causing Liability to be put on him. (As a dump case).

For the reasons set forth in this petition for rehearing , the Petitioner, Mr. Cannady, respectfully requests the petition For Rehearing the writ of *certiorari* be granted.

Respectfully submitted,
GEORGE W. CANNADY
4785 HWY 71 N.
Greenwood FL. 32443
(850) 594-7741

Counsel of Record
HEDI J. LIVINGSTON
P.O. Box 1090
Winter Park FL. 32790-1090
Telephone (407) 628-4848

Dated February 16 2007

Pro-se for Petitioner
George W. Cannady

Supreme Court of the United States
Office of the Clerk
Washington, DC 20543-0001

William K. Suter
Clerk of the Court
(202) 479-3011

January 8, 2007

Mr. George W. Cannady
4785 Highway 71 North
Greenwood, Fl. 32443

Re: George W. Cannady
v. Karl Sinclair Franz, et al
No. 06-640

Dear Mr. Cannady:

The Court today entered the following order in the Above-entitled case:

The petition for a writ of certiorari is denied.

Sincerely

S. William K. Suter

William K. Suter, Clerk

Supreme Court of the United States

Office of the Clerk

Washington, DC 20543-0001

William K. Suter
Clerk of the Court
(202) 479-3011

January 24,2007

Mr. George W. Cannady
4785 Highway 71 North
Greenwood FL. 32443

Re: George W. Cannady
v. Karl Sinclair Franz, et al.
Application No. 06A727

Dear Mr. Cannady:

The application for an extension of time within which to file a petition for rehearing in the above-entitled case has been presented to Justice Thomas, who on January 24, 2007 extended the time to and including March 4,2007.

This letter has been sent to those designated on the attached notification list.

Sincerely,

William K. Suter, Clerk

By *S. Melissa Blalock*

Melissa Blalock

Case Analyst

Supreme Court of the United States
Office of the Clerk
Washington, DC 20543-0001

William K. Suter
Clerk of the Court
(202) 479 -3011

NOTIFICATION LIST

Mr. George W. Cannady
4785 Highway 71 North
Greenwood, FL. 32443

Mrs, Heidi J. Livingston
P.O. Box 1090
Winter Park. FL. 32790

Clerk
Supreme Court of Florida
Supreme Court Building
Tallahassee, FL. 32399-1927

BEST AVAILABLE COPY

Quote of page and line of transcript of
hearing May 20.2003 page 6 page 7 page 11

line	page 6
6	The Court: Let me sure make I;ve got you
7	straight. Essentially, your client and you have no
8	evidence that you ever received the necessary notice of
9	intent.
11	The Court: And there;s nothing in the file to
12	indicate that he sent it, and it got sent to the wrong
13	place or anything else? There's just nothing there.

3 a 1

line	page 7
3	MR. Cannady: My response is due to the
4	unreasonable failure of both defendants, in other words, I
5	went there to get treatment, and I've been told by a
6	professional doctor that the artery blockage in my hand
7	could nave been prevented just by giving me a blood
8	thinner, Your Honor. We wouldn't be here today if Jackson

3 a 1

line Continued from page 7

Hospital or Dr. Franz had gave me a blood thinner instead
of telling me,"Hey' go back to Dr. Franz."
MR. Cannady: Well, like I said the Florida statute that he's talking about 766.106 (3)(a)(4) says any
reasonable failure of the defendants or me, in other words,
would qualify dismissal of the defense. In other words,
would qualify dismissal of the defense. In other they're using this statute for defense. In other words,
they don't cooperate with me. In other word, why should
cooperate with them? In other word, I went to the
hospital and asked for treatment, Your Honor, and I should

---

4 a

line Continued page 11

MR. Cannady: Well my complaint actually don't
stipulate malpractice, in other words.
The Court: I understand.
word, the statute says unreasonable failure of either
side, in other word, Your Honor.

Certification of proof of service

I George W. Cannady Under Penalty of Perjury do swear that on this date February 16, 2007 as required by Supreme Court Rule 29. 3 as required by Rule 33.1 I have served three copies of the Petition for A Rehearing Writ Of Certiorari on each party to the Preceding. In an envelope containing the above documents in the United States Certified mail with return receipt to the Att. for Respondants. The name and add -resses of those served are as follows. Law Offices George, Hartz, Lundeen, Fulmer, Johnstone, King & Stevens & Britt Thomas for Franz P.O. Box 14500 Tallahassee Florida 32317-4500 And Heidii J. Livingston Law Office Hill, Adams, Hall, & Schieffelin P.A. For Jackson Hosp. P.O. Box 1090 Winter Park, Fla. .32790-1090. and ~~Three~~ Five Copy to the Clerk Supreme Court of Fla. Supreme Court Builing Tallahassee, FL. 32399 -1927. I sent the document requirement in Rule 33.(f) To the Office of the Clerk Supreme Court of the United States 1 First St. N.E. Washington D.C. 20543.

George W. Cannady

George W. Cannady
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